IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL APPLICATION(REVIEW) NO. 8 OF 2005

Shri Chandrakant Budo Naik
Mayekar, Verem, Bardez, Goa. ... Applicant

versus

Shri Gopal Vishnu Naik
Panvelkar and others. ... Respondents

Mr. D. P. Bhise, Advocate for the Applicant.

Mr. Sudin Usgaonkar, Advocate for Respondent No.3.

CORAM : N. A. BRITTO, J.

DATE : 14TH OCTOBER, 2005.

P.C.:-

Heard Mr. D. P. Bhise, the learned Counsel appearing on behalf of the applicant/plaintiff.

The plaintiff's second appeal was rejected by Judgment of this Court dated 8-4-2005. In rejecting the said second appeal, it was observed that the conclusions arrived at by both the Courts could not be faulted, firstly, because the plaintiff had filed the suit for declaration that the Judgment/Decree dated 31-7-1970 were obtained by fraud and

any suit or declaration had necessarily to be filed within a period of three years which was not filed by the plaintiff. It was also observed that the plaintiff could have succeeded in recovering possession of the property only in the event the plaintiff had succeeded in proving that the Judgment/Decree dated 31-7-1970 were obtained by fraud but even then the plaintiff's prayer for recovery of possession was beyond the period of 12 years, as provided by Article 64 of the Limitation Act, 1963(Act, for short). It was further held by this Court that the substantial questions of law sought to be raised were not substantial questions of law vide paras (i), (ii) and (iii) which arose from the suit filed by the plaintiff, namely, R.C.S. No.239/85/C.

The plaintiff has filed a review against the said Judgment of this Court dated 8-4-2005 contending that the dispossession of the plaintiff by decree of the Court in execution proceedings would be a bar for filing a suit for recovery of possession under Article 64 of the said Act since the word "dispossession" means dispossession by force and without authority of law. The review jurisdiction as contemplated by Order 47, C.P.C. is meant interalia, for correction of mistakes or errors apparent on the face of the

record. The question now agitated on behalf of the plaintiff is one of law. Review jurisdiction is not for correction of views but only for correction of mistakes or errors apparent on the face of record. Being so, I find there is no merit in this application which is dismissed in limine.

N. A. BRITTO, J.

RD.